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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/998,846	11/15/2001	Denise Gurur	3COM-2989.TDC.US.P	6875

7590 03/24/2005
WAGNER, MURABITO & HAO LLP
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EXAMINER

PUENTE, EMERSON C

ART UNIT PAPER NUMBER

2113

DATE MAILED: 03/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/998,846

Applicant(s)

GURER ET AL.

Examiner

Emerson C Puente

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 November 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is made **Non-Final**. Claims 1-36 have been examined

Drawings

New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the drawings are informal. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 9, 10, 19-32, and 35-36 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5,872,911 of Berg.

In regards to claim 1 and 27, Berg discloses:

receiving a plurality of fault data pertaining to said data network (see column 1 lines 55-

67)

filtering said plurality of fault data to obtain a core of fault data (see column 1 lines 55-67)

analyzing said core of fault data to identify a fault associated with said core of fault data (see column 1 lines 55-67)

In regards to claim 2 and 28, Berg discloses implementing a set of rules for filtering said plurality of fault data (see column 3 lines 50-67 and column 4 lines 1-23 and 54-67).

In regards to claim 3 and 29, Berg discloses eliminating redundant fault data in said plurality of fault data to obtain said core of fault data (see column 3 lines 40-50).

In regards to claim 4 and 30, Berg discloses correlating said plurality of fault data into recognized patterns of data comprising said core of fault data (see column 4 lines 27-32).

In regards to claim 5 and 31, Berg discloses wherein the plurality of fault data is taken from a group consisting of: alarms; events; remote monitoring (RMON)- 1 data; and RMON-2 data (see column 3 lines 15-30)

In regards to claim 6 and 32, Berg discloses determining whether said fault is due to a broken link or congestion in said data network (see column 10 lines 1-5).

In regards to claim 9 and 35, Berg discloses displaying the location of said fault and displaying a cause of said fault (see column 5 lines 50-60).

In regards to claim 10 and 36, Berg discloses wherein said fault data includes performance data from said data network (see column 3 lines 15-20).

In regards to claim 19, Berg discloses

a plurality of subnetworks that generate a plurality of fault data, each of said plurality of subnetworks comprising network components that are coupled together via a distributing component (see figure 3 and column 8 lines 17-25);

a plurality of performance managers coupled to said plurality of subnetworks for monitoring said plurality of subnetworks for said plurality of fault data and for filtering said plurality of fault data, each of said plurality of network performance managers coupled to and associated with one of said plurality of subnetworks (see figure 3 and column 1 lines 55-67 and column 8 lines 17-47);

a single network management station coupled to each of said plurality of performance managers for analyzing said plurality of fault data that is filtered to identify faults and isolate sources of said faults (see figure 3 and column 1 lines 55-67 and column 8 lines 17-47).

In regards to claim 20, Berg discloses

wherein said network components are computers (see column 11 lines 23-28).

In regards to claim 21, Berg discloses

wherein said distributing component is a switch (see figure 3 and column 8 lines 27-35)

In regards to claim 22, Berg discloses

wherein said plurality of fault data is management information base (MIB) information that is generated by said network (see column 3 lines 15-30).

In regards to claim 23, Berg discloses

a rule set that is implemented by said network management station for analyzing said plurality of fault data that is filtered to identify said faults and isolate said sources of said faults (see column 3 lines 50-67 and column 4 lines 1-23 and 54-67).

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In regards to claim 24, Berg discloses
a rule set that is implemented by each of said plurality of performance managers for filtering said plurality of fault data (see column 3 lines 50-67 and column 4 lines 1-23 and 54-67).

In regards to claim 25, Berg discloses
wherein said plurality of fault data includes performance data from said data network (see column 3 lines 15-20)

In regards to claim 26, Berg discloses
wherein each of said plurality of performance managers is self diagnosing network performance manager (SDNNPM) (see column 8 lines 15-25).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7 and 33 rejected under 35 U.S.C. 103(a) as being unpatentable over Berg in view of US Patent No. 6,654,914 of Kaffine et al. referred hereinafter "Kaffine".

In regards to claim 7 and 33, Berg discloses:

determine a location of said broken link, if said fault is due to a broken link (see column 5 lines 55-60).

However, Berg fails to disclose implementing a ping walk through said data network.

However, Kaffine discloses using pinging to determine causes of faults (see column 4 lines 1-5 and column 7 lines 30-31).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use pinging to determine a cause of the fault. A person of ordinary skill in the art at the time of the invention would have been motivated because Berg discloses determine locations of the fault (see column 5 lines 55-60) and pinging is known and used method for determining locations of faults, as per teachings of Kaffine (see column 4 lines 1-4 and column 7 lines 30-31).

Claims 8 and 34 rejected under 35 U.S.C. 103(a) as being unpatentable over Berg in view of US Patent No. 6,304,900 of Cromer et al. referred hereinafter "Cromer".

In regards to claim 8 and 34, Berg fails to disclose isolating a source of said fault, if said fault is due to said congestion in said data network.

However, Cromer discloses identifying a source of said fault if said fault is due to congestion in said data network (see column 3 lines 55-65).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to isolate a source of said fault, if said fault is due to congestion in said data network. A person of ordinary skill in the art at the time of the invention would have been motivated because Berg discloses analyzing network data to isolate source of faults in a network, and

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Cromer discloses analyzing a network data to isolate source of faults in a network due to congestion in the data network (see column 3 lines 55-65).

Claims 11-15 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berg in view of Cromer and Kaffine.

In regards to claim 11, Berg discloses:

receiving a plurality of fault data pertaining to said data network (see column 1 lines 55-67)

filtering said plurality of fault data to obtain a core of fault data (see column 1 lines 55-67)

determining whether said fault is due to a broken link or congestion in said data network (see column 10 lines 1-5).

determine a location of said broken link, if said fault is due to a broken link (see column 5 lines 55-60).

However, Berg fails to disclose:

implementing a ping walk through said data network.

isolating a source of said fault, if said fault is due to said congestion in said data network.

Kaffine discloses using pinging to determine causes of faults (see column 4 lines 1-5 and column 7 lines 30-31).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use pinging to determine a cause of the fault. A person of ordinary skill in the art at the time of the invention would have been motivated because Berg discloses determine locations

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of the fault (see column 5 lines 55-60) and pinging is known and used method for determining locations of faults, as per teachings of Kaffine (see column 4 lines 1-4 and column 7 lines 30-31).

Furthermore, Cromer discloses identifying a source of said fault if said fault is due to congestion in said data network (see column 3 lines 55-65).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to isolate a source of said fault, if said fault is due to congestion in said data network. A person of ordinary skill in the art at the time of the invention would have been motivated because Berg discloses analyzing network data to isolate source of faults in a network, and Cromer discloses analyzing a network data to isolate source of faults in a network due to congestion in the data network (see column 3 lines 55-65).

In regards to claim 12, Berg discloses:

eliminating redundant fault data in said plurality of fault data to obtain said core of fault data (see column 3 lines 40-50).

In regards to claim 13, Berg discloses:

correlating said plurality of fault data into a recognized pattern of data forming said core of fault data (see column 4 lines 27-32).

In regards to claim 14, Kaffine discloses

sending a ping signal to each of a plurality of addresses in said data network and determining which addresses are unreachable addresses to determine a location of said link in said data network (see column 4 lines 1-4 and column 7 lines 30-31).

In regards to claim 15, Cromer discloses:

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monitoring said data network to determine traffic data (see column 3 lines 55-65);
analyzing said traffic data using said deductive reasoning to isolate said source and
identify said fault (see column 3 lines 55-65)

In regards to claim 18, Berg discloses correcting said fault (see column 6 lines 4-5).

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Berg in view of
Cromer and Kaffine, and in further view of US Patent No. 5,936,940 of Marin referred
hereinafter "Marin".

In regards to claim 16, Berg in view of Kaffine and Cromer fails to disclose:

determining queue link in network device;

determining delay over a path in said data network; and

determining load of traffic over said data network;

However, Marin discloses determining queue link in network device, determining delay
over a path in said data network, and determining load of traffic over said data network (see
column 7 lines 5-22).

It would have been obvious to one of ordinary skill in the art at the time the invention
was made to determine queue link in network device, determine delay over a path in said data
network, and determine load of traffic over said data network. A person of ordinary skill in the
art at the time of the invention would have been motivated because Cromer discloses detecting
congestion in a network (see column 3 lines 55-65) and determining queue link in network
device, determining delay over a path in said data network, and determining load of traffic over

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said data network, is a known method for determining congestion in a network, as per teachings of Marin (see column 7 lines 1-22).

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Berg in view of Cromer and Kaffine, and in further view of US Patent No. 6,289,379 of Urano et al. referred hereinafter "Urano".

In regards to claim 17, Berg in view of Kaffine and Cromer fails to disclose:
querying said data network for additional fault data if said core of fault data is insufficient to identify said fault.

However, Urano discloses collecting more information to determine the cause of a fault, indicating querying said data network for additional fault data if said core of fault data is insufficient to identify said fault (see column 2 lines 25-30).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to querying said data network for additional fault data if said core of fault data is insufficient to identify said fault. A person of ordinary skill in the art at the time of the invention would have been motivated because Berg discloses collecting data to determine the cause of a fault (see column 1 lines 60-65), and querying said data network for additional fault data if said core of fault data is insufficient to identify said fault is a known means to determine the cause of a fault, as per teaching of Urano (see column 2 lines 25-30)


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Emerson C Puente whose telephone number is (571) 272-3652. The examiner can normally be reached on 8-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert W Beausoliel can be reached on (571) 272-3645. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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3/17/05


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PRIMARY EXAMINER